

Panaji, 18th August, 2005 (Savana 27, 1927)

SERIES II No. 20

OFFICIAL GAZETTE



GOVERNMENT OF GOA

SUPPLEMENT

No. 2

GOVERNMENT OF GOA

Department of Labour

Workman/Party I - Represented by Adv. Shri Suhas Naik.

Employer/Party II - Represented by Adv. Shri P. Chawdikar.

Panaji, dated: 14-2-2005.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 14-02-2005 in reference No. IT/55/99 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 25th February, 2005.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/55/99

Workmen rep. by
The President,
Goa Trade and Commercial
Workers' Union,
Velho Building, 2nd Floor,
Panaji-Goa.

V/s

The Managing Director,
M/s. Power Engineering Corporation,
58/A, Tuem Industrial Estate,
Tuem,
Pernem-Goa.

... Workman/Party I

... Employer/Party II

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 the Government of Goa, by order dated 17th May, 1999 bearing No. IRM/CON/(88)/98/2573 referred the following dispute for adjudication of this Tribunal.

- "(1) Whether the action of the management of M/s. Power Engineering Corporation, Pernem, Goa, in terminating the services of Shri Vilas Shetye and Shri Kashinath Chodankar, with effect from 29-12-1998 is legal and justified ?
- (2) Whether the action of the management of M/s. Power Engineering Corporation, Pernem, Goa, in initially refusing employment to the following workmen, with effect from 30-12-1998 and subsequently terminating their services with effect from 5-1-99, is legal and justified ?

- | | |
|---------------------------|----------------------------|
| (1) Mr. Prakash Prabhu | (6) Mr. Chandrakan Purkhe |
| (2) Mr. Madhu Tari | (7) Mr. David Fernandes |
| (3) Mr. Vishwas Chodankar | (8) Mr. Felix Rodrigues |
| (4) Mr. Rupesh Naik | (5) Mr. Jeetendra Veluskar |
| (5) Mr. Rajan Arolkar | |

2. On receipt of the reference a case was registered under No. IT/55/99 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Workmen/Party I (for short, "workmen") filed their statement of claim at Exb. 3. The facts of the case in brief as pleaded by the workmen are that the Employer/Party II (for short, "employer") has factory situated at Tuem Industrial Estate, Tuem, Pernem, Goa. That the workmen are the permanent employees of the employer for the

last more than 5 years and during the tenure of their service they worked continuously performing the work allotted to them diligently and efficiently. That the employer did not provide proper service conditions to the workers and made them to work on hazardous conditions and they were not provided with proper rest rooms, drinking water facilities, lavatories, first aid treatment, hand gloves and shoes. That the Managing Director Mr. Atul Kane was harassing and threatening the workers and they were made to work beyond working hours. That the workers became members of Goa Trade and Commercial Workers Union under the resolution dated 13-12-1998 and this fact was informed to the employer by letter dated 13-12-1998. That the employer was also informed about the election of the executive Office bearers and the employer was requested to treat them as protected workmen. That on coming to know about the joining of the union by the workers the Managing Director started victimizing and harassing the workers by adopting various illegal and unfair labour practices. That the employer refused employment to the workmen, Vilas Shetye and Kashinath Chodankar on 29-12-1998 and thereafter on 30-12-1998 refused employment to Mr. Prakash Prabhu, Madhu Tari, Vishwas Chodankar, Rupesh Naik, Rajan Arolkar, Chandrakant Purkhe, David Fernandes, Felix Rodrigues and Jeetendra Veluskar without assigning any justified reasons. That the union by letter dated 30-12-1998 requested the labour commissioner to intervene in the matter termination of the services of the workmen, Mr. Vilas Shetye and Kashinath Chodankar and the copy of the same was sent to the Managing Director requesting him to reinstate the workmen with full back wages. That the employer did not attend the meeting fixed by the Deputy Labour Commissioner on 1-1-1999. That on 1-1-1999 the Managing Director physically lifted Mr. Vilas Shetye and Shri Kashinath Chodankar from the Mapusa bus terminus with the help of four unidentified goondas and under the threat on dire consequences their signatures were obtained on blank papers and Mr. Kashinath Chodankar was given a cheque of an amount of Rs. 4674/- and Mr. Vilas Shetye was given a cheque of Rs. 4617/-. That a written complain was made at the Mapusa Police Station and the copy of the same was given to the Labour Commissioner. That the termination of service of the above 2 workmen by the employer is illegal and unjustified and therefore the said 2 workmen are entitled to reinstatement in service with full back wages. That the refusal of employment by the employer to the workmen Mr. Prakash Prabhu, Madhus Tari, Vishwas Chodankar, Rupesh Naik, Rajan Arolkar, Chandrakant Purkhe, David Fernandes, Felix Rodrigues and Jeetendra Veluskar is also illegal and unjustified. That the said workmen were not issued any warning memo, show cause notice or charge sheet before refusing employment to them nor any enquiry was conducted against them. The workmen contended that they are entitled to reinstatement in service with full back wages and continuity in service.

3. The employer filed written statement at Exb. 5. The employer statement that the dispute referred is not an

Industrial dispute and therefore the reference is liable to be rejected. The employer denied that any of the workmen had completed 5 years of continuous service and they worked diligently and efficiently. The employer denied that the workers were not provided with proper service conditions or that they were made to work in hazardous conditions or they were not provided with proper facilities as well as rest rooms, drinking water facilities etc. The employer denied that a letter dated 13-12-1998 was received informing about the passing of the resolution by the workers or their becoming members of Goa Trade and Commercial Workers Union. The employer denied that the Managing Director started harassing or victimizing the workers or adopting illegal, unfair labour practices. The employer stated that the service of Mr. Kashinath Chodankar and Mr. Vilas Shetye were terminated because the employer lost faith in them. The employer stated that the workmen resorted to unjustified and illegal strike from 30-12-1998 and inspite of the efforts made to persuade them to report for work they failed to do so and therefore by letter dated 6-1-1999 the services of Mr. Jetendra Veluskar, Prakash Prabhu, Madhu Tari, Vishwas Chodankar, Rupesh Naik, Rajan Arolkar, Chandrakant Purkhe, David Fernandes, Felix Rodrigues were terminated. The employer denied that Mr. Vilas Shetye and Kashinath Chodankar were physically lifted by the Managing Director or they were threatened as alleged. The employer stated that the said two workmen voluntarily accepted their full and final dues and denied that their signatures were obtained on blank papers under threat. The employer denied that the termination of the services of the workmen is illegal and unjustified. The employer stated that the workmen after termination of their services are gainfully employed. The employer denied that the workmen are entitled to any relief. The Workmen thereafter filed rejoinder.

4. On the pleadings of the parties issues were framed at Exb. 7 and the case was fixed for recording the evidence of the workmen. After the evidence of the workmen was partly recorded, at the request of the parties, the case was fixed for filing the terms of the settlement on 1-11-2004 as the parties submitted that they are trying to arrive at an amicable settlement. Accordingly on the said date the parties filed the terms of the settlement dated 17-11-2004 at Exb. 11 in respect of the workmen Mr. Kashinath Chodankar, Vilas Shetye, Prakash Prabhu, Madhu Tari, Vishwas Chodankar, Rupesh Naik, Rajan Arolkar, Chandrakant Purkhe, David Fernandes, Felix Rodrigues. The parties prayed that the consent award be passed in terms of the said settlement 17-11-2004 Exb. 1. Therefore the parties submitted that they desire to settle the dispute also with reference to the workman Mr. Chandrakant Purkhe and Rupesh Naik and at their request the case was fixed on 26-11-2004 for filing the terms of the settlement. Accordingly on the said date the parties filed the terms of the settlement dated 26-11-2004 Exb. 12 in respect of the workmen Chandrakant Purkhe and Rupesh Naik. The parties prayed that consent award be passed in terms of the said settlement.

I have gone through the terms of the settlement dated 17-11-2004 Exb. 11 and the terms of the settlement dated 26-11-2004 Exb. 12. I am satisfied that the terms of the settlement are certainly in the interest of the workmen. I therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 17-11-2004 Exb. 11 and 26-11-2004 Exb. 12.

ORDER

TERMS OF THE SETTLEMENT

Dated: 17-11-2004 Exb. 11

1. It is agreed the parties that all the workmen named in the Schedule of reference namely (1) Kashinath Chodankar (2) Villas Shetye (3) Vishwas Chodankar (4) Madhu Tari (5) Prakash Prabhu (6) Jitendra Veluskar (7) David Fernandes (8) Felix Rodrigues are treated to be retrenched w.e.f. 31-10-2004.

- a) Gratuity @ 15 days salary for every completed year of service as on 31-10-2004.
- b) Retrenchment Compensation as per Law.
- c) 43% Back Wages from 29-12-1998 to 31-10-2004.
- d) Unpaid leave salary due to the credit of all the workmen.
- e) Unpaid salary for the month of December, 1998.
- f) The detailed calculations payable to all the workmen named in the schedule of reference are shown in Annexure "A" annexed to this application against the name of every individual workmen towards his full and final settlement.
- g) In view of the above terms of the settlement, each of the workman named above shall be paid the following amount by two cheques referred hereinbelow.

Sr. No.	Names	Amount	Cheque No.	Dated
1.	Kashinath Chodankar	70636=00 1st Installment of Rs. 35,000/- 2nd Installment of Rs. 35,636/-	No. 0976050 No. 0976049	17-11-2004 15-12-2004
2.	Villas Shetye	64,895=00 1st Installment of Rs. 32,000/- 2nd Installment of Rs. 32,895/-	No. 0976046 No. 0976047	17-11-2004 15-12-2004
3.	Vishwas Chodankar	100176=00 1st Installment of Rs. 50,000/- 2nd Installment of Rs. 50,176/-	No. 097648 No. 0976132	17-11-2004 15-12-2004
4.	Madhu Tari	53023=00 1st Installment of Rs. 26,000/- 2nd Installment of Rs. 27,023/-	No. 0976133 No. 0976134	17-11-2004 15-12-2004
5.	Prakash Prabhu	78668=00 1st Installment of Rs. 39,000/- 2nd Installment of Rs. 39,668/-	No. 0976135 No. 0976136	17-11-2004 15-12-2004
6.	Jitendra Veluskar	116484=00 1st Installment of Rs. 55,000/- 2nd Installment of Rs. 61,484/-	No. 0976137 No. 0976138	17-11-2004 15-12-2004
7.	David Fernandes	34239=00 1st Installment of Rs. 17,000/- 2nd Installment of Rs. 17,239/-	No. 0976139 No. 0976140	17-11-2004 15-12-2004
8.	Felix Rodrigues	34239=00 1st Installment of Rs. 17,000/- 2nd Installment of Rs. 17,239/-	No. 0976141 No. 0976142	17-11-2004 15-12-2004

3. It is agreed between the parties that the employer/ /Party II shall assist the workmen in claiming their Provident Fund dues from the Office of Provident Fund Authorities by signing the valid form for withdrawal of the Provident Fund dues, if any.

4. It is agreed between the parties that the Management shall issue a Bonafide Service Certificate to all the workmen named in the Schedule of reference mentioning the correct date of joining

5. It is agreed between the parties that the employer/ /Party II shall pay the amount to each and every individual workman as shown in Annexure "A" by a Cheque in favour of the workmen on the date of filing of these settlement before this Hon'ble Court and the workmen agrees to issue a valid receipt towards its acknowledgement.

6. It is agreed between the parties that the employer/ /Party II shall deduct an amount of 10% at source from

the total dues payable to the workmen as per Annexure "A" and agrees to pay the same to the Goa Trade and Commercial Workers' Union by a Cheque on the date of signing of these settlement.

7. In view of the above terms, the workmen agrees that their Dispute stands conclusively settled and that they have no claim of whatsoever nature against the employer/Party II.

"Annexure" A

Sr. No.	Name of the Workman	Monthly Salary	Total Salary for 69 months and 10 days	43% Salary payable	Retrenchment Compensation	Gratuity	Unpaid Salary for Dec. 99	Leave Salary 15 days	Total amount payable	Less Deductions for Union	Net Payable
1.	Jitendra Veluskar	3240	224640	96529	11215	16823	3240	1620	129427	12943	116484
2.	Kashinath Chodankar	1945	134853	57987	7481	10099	1945	972	78484	7848	70636
3.	Vishwas Chodankar	2785	193093	83029	9640	14460	2785	1393	111307	11131	100176
4.	Prakash Prabhu	2160	149760	64397	9180	10592	2160	1080	87409	8741	78668
5.	Madhu Tari	1460	101227	43528	5615	7581	1460	730	58914	5891	53023
6.	Vilas Shetye	1835	127227	54707	5646	8999	1835	918	72105	7210	64895
7.	David Fernandes	1000	69333	29813	2692	4038	1000	500	38043	3804	34239
8.	Felix Rodrigues	1000	69333	29813	2692	4038	1000	500	38043	3804	34239
Total				459803	54161	76630	15425	7713	613732	61372	552360

TERMS OF SETTLEMENT

Dated : 26/11/2004 Exb.12

1. It is agreed between the parties that the workmen named in the Schedule of reference namely (1) Chandrakant Purkhe (2) Rupesh Naik are treated to be retrenched w.e.f. 31/10/2004. It is agreed that the dispute in respect of the workman Rajan Arolkar has been duly settled by employer outside the court and he has no claim on the employer.

2. In view of the above, the employer/Party No. II has agreed to pay the workmen named in above clause (1) the following compensation.

- Gratuity @ 15 days salary for every completed year of service as on 31/10/2004
- Retrenchment Compensation as per Law
- 43% Back Wages from 29/12/1998 to 31/10/2004
- Unpaid leave salary due to the credit of all the workmen.
- Unpaid salary for the month of December, 1998.
- The detailed calculations payable to all the workmen named in the schedule of reference are shown hereinunder to this application

against the name of every individual workman towards his full and final settlement.

- g) In view of the above terms of the settlement, each of the workman named above shall be paid the following amount by Cheque.

Sr. No.	Names	Amount	Cheque No.	Dated
1.	Chandrakant Purkhe	27000/-	No. 0975690	26-11-2004
		28467/-	No. 0975691	21-12-2004
2.	Rupesh Naik	17000/-	No. 0975692	26-11-2004
		17239/-	No. 0975693	21-12-2004

3. It is agreed between the parties that the employer/ Party II shall assist the workmen in claiming their Provident Fund dues from the office of Provident Fund Authorities by signing the valid form for withdrawal of the Provident Fund dues.

4. It is agreed between the parties that the Management shall issue a Bonafide Service Certificate to all the workmen named in the Schedule of reference mentioning the correct date of joining.

5. It is agreed between the parties that the employer/ Party II shall pay the amount to each and every individual workmen as shown hereinabove by a Cheque

in favour of the workmen on the date of filing of these settlement before this Hon'ble Court and the workmen agrees to issue a valid receipt towards its acknowledgement.

6. It is agreed between the parties that the employer/Party II shall deduct an amount of 10% at source from the total dues payable the workmen as per this settlement and agrees to pay the same to the Goa Trade and Commercial Workers' Union by a Cheque on the date of signing of these settlement by cheque No. 0975694 dated 30-11-2004 for Rs. 9967/-.

7. In view of the above terms, the workmen agrees that their Dispute stands conclusively settled and that they have no claim of whatsoever nature against the employer/Party II.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 11-01-2005 in reference No. IT/34/2004 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 7th February, 2005.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

IT/34/2004

Shri Minino Agnelo Rebello,
H. No. 37, Binvaddo,
Betalbatim, Goa. ... Workman/Party I

V/s
The Leela Palace,
Mobor, Cavelossim,
Salcete, Goa. ... Employer/Party II

Workman/Party I - present in person.

Employer/Party II - represented by Adv. Shri M. S. Bandodkar.

Panaji, dated: 11-1-2005.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Dispute

Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 8-9-04 bearing No. 28/12/2004-Lab/677 referred the following dispute for adjudication of this Tribunal.

"(1) Whether the action of the Leela Palace, Mobor Cavelossim, in dismissing Shri Menino Agnelo Rebello, Assistant Steward with effect from 16-3-2002, is legal and justified ?

(2) If not, to what relief the workman is entitled?"

2. On receipt of the reference a case was registered under No. IT/34/2004 and registered A/D notice was issued to the parties. In pursuance to the said notice the employer/Party II (for short, "employer") put in his appearance and was represented by Adv. Shri M. S. Bandodkar. The A/D card in respect of the notice issued to the workman/Party I (for short, "workman") was not received by the office of this tribunal and therefore, a fresh notice was issued requiring the workman to appear on 16-12-2004. The said notice was returned unserved with a postal remark "Unclaimed". Adv. Shri M. S. Bandodkar representing the employer submitted that the matter has already been settled with the workman and prayed for time to file the terms of the settlement. Accordingly, the case was fixed on 21-12-2004 for filing terms of the settlement. On this date the workman remained present in person and Adv. M. S. Bandodkar appeared on behalf of the employer. Both the parties submitted that the dispute between them is amicable settled and they filed the terms of settlement dated 21-12-2004 at Exb. 4. The parties prayed that consent award be passed in terms of the said settlement.

3. I have gone through the terms of the settlement dated 21-12-2004, which are duly signed by the parties and I am satisfied with the said terms and are certainly in the interest of the workman. I therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 21-12-2004 Exb. 4.

ORDER

1. It is agreed between the parties that the Management of The Leela Goa having its establishment at Mobor, Cavelossim, Goa (hereinafter referred to as "Company") shall pay a sum of Rs. 35,000/- (Rupees thirty five thousand only) to Mr. Menino Agnelo Rebello, by way of an Accounts payee cheque No. 0753718 dated 6-12-2004 drawn on State Bank of India, Margao, branch in full and final settlement of all his claims which shall include earned wages, bonus, Gratuity, leave encashment, overtime notice pay, retrenchment, etc. if any arising out of his employment/ termination, and claims arising out of the reference mentioned hereinabove.

2. It is agreed by the workman that he shall accept the said amount mentioned hereinabove clause

No. 1, in full and final settlement of all his claims arising out of his employment with the company and shall acknowledge the said amount by way of receipt duly signed by him and further confirm that nothing further benefits are due and payable to him by the company which can be computed in terms of money, and this settlement shall satisfy all his claims including the claim under reference including any claim of reinstatement and/or reemployment.

No order as to cost. Inform the Government accordingly.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 20-01-2005 in reference No. IT/34/96 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 7th February, 2005.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/34/96

Shri Vithal Kamat and Raju Naik,
Rep. by the United Mine Workers Union,
Khadapa Band,
Ponda, Goa.

... Workman/Party I

V/s

M/s. Salgaonkar Industrial
Gases Pvt. Ltd.,
Cortalim, Goa.

... Employer/Party II

Workmen/Party I - represented by Adv. Shri Suhas Naik.

Employer/Party II - represented by Adv. Shri M. S. Bandodkar.

Panaji, dated: 20-1-2005.

AWARD - Part-I

In exercise of the powers conferred by clause (d) of sub-section 1 of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 4-6-1996 bearing No. 28/20/96-Lab referred the following dispute for adjudication of this Tribunal.

"(1) Whether the action of M/s. Salgaonkar Industrial Gases Pvt. Ltd., Cortalim, in terminating the services of S/Shri Vithal Kamat and Raju Naik with effect from 13-8-1995 is legal and justified.

(2) If not, to what relief the workmen are entitled?"

2. On receipt of the reference a case was registered under No. IT/34/96 and registered A/D notice was issued to the parties. Both the parties were duly served with the said notice. In spite of the receipt of the notice by United Mine Workers Union, Khadapa Bhand, Ponda, Goa, who were representing the workmen in the present case, no statement of claim came to be filed on behalf of the workmen and therefore this Tribunal passed award dated 6-12-1996 holding that the termination of service of the workmen by the employer/Party II (for short employer) with effect from 13-8-1995 is legal and justified. Thereafter an application dated 10-4-1997 was filed on behalf of the workmen/Party I (for short workmen) for setting aside the award dated 6-12-1996 passed in the above reference. After hearing the parties this Tribunal by order dated 27-8-1997 set aside the award dated 6-12-1996 and allowed the workmen to file the statement of claim and contest the proceedings. Accordingly, the workmen filed statement of claim at Exb. 4. The facts of the case in brief as pleaded by the workmen are that the workman Shri Vithal Kamat was working as an Electrician and workman Shri Raju Naik was working as a Helper with the employer. That the employer is having a sister concern by name Curti Enterprises Limited, where the employer sent them to work for 4 months to do the electrical jobs. That after completing the period of 4 months the workmen were brought back to the employer M/s. Salgaonkar Industrial Gases and the workmen worked there till 13-8-1995 and thereafter they were refused employment without assigning any reasons. That by virtue of continued employment as trainee the workmen were not required any training of jobs as the nature of work was very simple. That there after the employer enquired with the workmen whether they were prepared to take up the job under contract terms and conditions which offer was turned down by them as they were permanent workmen by virtue of management not extending their training period. That they were assured by the Manager of the employer, that from 3-5-1994 the employer will regularized their services and will give all the benefit to them like that of the permanent workers. That in view of the assurance given, the workmen continued to work with the employer. However, the Manager substantially

kept a note dated 12-8-1995 at the security gate informing the security incharge not to allow the workmen to report to work on 14-8-1995 and accordingly they were not allowed to resume their duties. That the workmen were not issued any letter refusing/terminating their services nor they were paid any compensation or legal dues. That the workmen who were the members of United Mine Workers Union raised the Industrial dispute on 14-8-1989 before the Asst. Labour Commissioner, Vasco. That the management did not participate in the conciliation proceedings as a result of which the conciliation resulted in failure. The workmen contended that the action of the management of terminating their services from 14-8-1995 is illegal and unjustified and the management did not comply with the provisions of Industrial dispute Act, 1947 at the time of termination of their services. The workmen contended that the employer recruited new workers in their place and as such the said action of the employer is in violation of the provisions of the Industrial Dispute Act, 1947. The workmen prayed that the employer be directed to reinstate them in service with full back wages with effect from 13-8-1995.

3. The employer filed written statement at Exb. 5. The employer stated that the dispute was raised by the United Mine Workers Union, but the statement of claim is neither signed nor verified by the said union. The employer stated that its manufacturing activities are closed permanently with effect from 31-3-1997, where the workmen were working and as such no relief of whatsoever nature can be granted to them. The employer stated that the workmen were working as trainees and they had excepted the terms by accepting the appointment letters issued to them and as such they are not workmen within the meaning of Section 2(s) of the Industrial Dispute Act, 1947. The employer stated that by letter dated 26-12-1991, the workmen were appointed as trainees for the period of one year from 2-1-1992 to 31-12-1992 and the training automatically stood terminated on 31-12-1992 and they were not engaged thereafter. The employer stated that subsequently by letter dated 3-5-1993 the workmen were again appointed from 3-5-1993 to 2-5-1994 on the terms and conditions mentioned in the letter of appointment which were accepted by them. The employer stated that the training period of the workmen was further extended by a period of 6 months by letter dated 2-5-1994 and on 31-10-1994 their training automatically stood terminated. The employer stated that on 17-10-1994 the training of the workmen was further extended for a period of 6 months on the terms and conditions mentioned in the appointment letter dated 3-5-1993 but they continued to be on training till the end of May, 1995, and thereafter by letter dated 1-6-1995 they were engaged on contract bases for a period of one year from 1-6-1995 to 30-5-1996. The employer stated that the workmen refused to accept the said letter dated 1-6-1995 and continued to work as trainee till the time their services were terminated by letter dated 9-8-1995. They employer stated that by abundant caution management decided to pay retrenchment compensation and notice pay to the

workmen and they were asked to fill Clearance Certificate Form and collect their legal dues from Accounts Department on 12-8-1995 but the workmen refused to accept the letter dated 9-8-1995 nor accepted the retrenchment compensation, notice pay and other dues and thereafter illegally and unjustifiedly raised a dispute before the Asst. Labour Commissioner. The employer stated that since the service of the workmen were terminated at the end of working hours on 12-8-1995 no wrong was done by Mr. Archarya in keeping a note at the security gate instructing not to allow the workmen to report for work. The employer denied that the termination of the services of the workmen is illegal or that it is in violation of Industrial Dispute Act, 1947 or that any principles of natural justice were not followed or that new persons were appointed in place of the workmen. The employer stated that the termination of the services of the workmen is legal and justified and they are not entitled to any relief. The workmen thereafter filed rejoinder at Exb. 6.

4. On the pleadings of the parties issues were framed at Exb. 7 and thereafter the evidence of the workmen was recorded. After the evidence of the workmen was recorded the case was fixed for recording the evidence of the employer. The employer examined one witness by name Shri Ranganath Acharya and when the case was fixed for cross examination of the said witness the parties submitted that they are trying to arrive at an amicable settlement. On 25-10-2004 Adv. Shri Suhas Naik representing the workmen and Adv. Shri S. K. Mandrekar holding for Adv. Shri Bandodkar representing the employer submitted that dispute of the workman Shri Vithal V. Kamat and the employer has been amicably settled by settlement dated 25-10-2004. They filed terms of the settlement dated 25-10-2004 at Exb. 11 and prayed that consent award be passed in respect of the settlement signed between Shri Vithal V. Kamat and the employer. I have gone through the said settlement which are duly signed by the parties and I am satisfied that the said terms are certainly in the interest of the workman Shri Vithal V. Kamat. I therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 25-10-2004 signed between the employer and the workman Shri Vithal V. Kamat.

ORDER

1. It is agreed between the parties that the Management of M/s. Salgaonkar Industrial Gases Pvt. Ltd., (hereinafter referred to as "Company") shall pay a sum of Rs. 12000/- (Rupees twelve thousand only) to Mr. Vithal V. Kamat by way of an Accounts payee cheques in full and final settlement of all his claims which shall include the wages, bonus, Gratuity, leave encashment, overtime notice pay, etc. if any arising out of his employment/termination, and claims arising out of the reference mentioned hereinabove.

2. It is agreed by the workman that he shall accept the said amount mentioned hereinabove clause No. 1, in full and final settlement of all his claims arising out of his employment with the company and shall acknowledge the said amount by way of receipt duly signed by him and further confirm that nothing further benefits are due and payable to him by the company which can be computed in terms of money, and this settlement shall satisfy all his claims including the claim under reference and any claim of reinstatement and/or reemployment.

No order as to cost. Inform the Government accordingly.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 22-02-2005 in reference No. IT/36/88 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 9th March, 2005.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/36/88

The President,
Goa Trade & Commercial Workers Union,
Velho Building,
Panaji, Goa.

... Workman/Party I

V/s

M/s. Agencia E. Sequeira,
Campal,
Panaji, Goa.

... Employer/Party II

Workmen/Party I - Represented by Adv. Shri R. D. Mangeshkar.

Employer/Party II - Represented by Adv. Shri A. Nigalye.

Panaji, dated: 22-2-2005.

AWARD

In exercise of the powers conferred by sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 7-11-1988 bearing No. 28/87/88-ILD referred the following dispute for adjudication of this Tribunal.

"Whether the action of the Management M/s. Agencia Sequeira, Campal, Panaji, in terminating the services of Shri Gajanan A. Gaude and Shri Premanand V. Naik with effect from 14-3-1987, is legal and justified.

If not, to what relief the workmen are entitled?"

2. On receipt of the reference a case was registered under No. IT/36/88 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The workmen/Party I (for short "Union") filed its statement of claim at Exb. 2. The facts of the case in brief as pleaded by the union are that the employer/Party II (for short 'employer') has a factory at Borim, Ponda, Goa, and it manufactures leading products of soft drinks like Top-cola, Top-orange, Campa-cola, Frest, Top-soda etc. and employs above 300 workers at its factory. That the employer had a Carambolim meant for storing and distributing soft drinks. That the workmen Shri Gajanan and Gawde and Shri Premanand Naik (for short 'workmen') joined the services of the employer in the year 1980 and 1981 respectively. They were employed as helpers and were initially posted at Carambolim depot. That in the year 1985 they were transferred at employers Old Goa/Ella sight plot which consisted of many trees, plants and other plantations of coconut trees, jackfruit etc. and in the said plot there is a well and a small store room used for keeping the implements and tools used by the workers for watering plants, cutting grass, leveling of ground etc. That the workmen were issued a show cause notice dated 14-1-1987 alleging that two large logs of wood found missing on 11-1-1987 and that the said logs of wood could not have been removed or stolen without the knowledge or connivance of the workmen and the other workman by name Shaikh Mohamad Ali. That thereafter a charge sheet dated 7-2-1987 was issued to the workmen and to said Mr. Shaikh Mohamad Ali making the same allegations as the one contained in the show cause notice dated 14-1-1987. That after the charge sheet was issued enquiry proceedings were held, and subsequently, findings were given by the inquiry officer, holding the workmen guilty of the charges. That the inquiry officer held the enquiry proceedings in total violations of the principle of natural justice and the inquiry officer acted in malafied, bias and arbitrary manner. That the workmen were not given fair opportunity to defend themselves in the enquiry. That the findings of the inquiry officer are based on presumptions and there is no evidence on record to establish the charges leveled against the workmen. That after the findings were given by the inquiry officer the employer terminated the services of the workmen w.e.f.

14-3-1987. The union contended that the termination of services of the workmen is illegal and unjustified and as such they are entitled to reinstatement in service with full back wages.

3. The employer filed written statement at Exb. 3. The employer stated that the union namely Goa Trade and Commercial Workers' Union has no locus standi or authority to continue with the present reference as all the workmen of the employer have left the said union and joined Gomantak Mazdoor Sangh. The employer admitted that the workmen were appointed as helpers at the Carambolim depot vide appointment letters dated 8-10-1981 and subsequently were transferred. The employer stated that the workmen were transferred to the Ella farm site of its sister concern M/s. Fabril Gasosa. The employer stated that the workmen were assigned duties of workmen at the said site. The employer stated that pursuant to a report of Mr. Luis Fernandes the incharge at the Ella site that two large logs of wood were missing from the site which was fanced from all sides, an investigation was conducted, and thereafter a show cause notice dated 14-1-1987 was issued to the workmen and to Mr. Shaikh Mohamad Ali. The employer stated that the said show cause notice was not replied by the workmen and hence a charge sheet dated 7-2-1987 was issued to them. The employer stated that an enquiry conducted into the said charge sheet and the said enquiry was conducted in a fair and impartial manner and in accordance with the principles of natural justice. The employer stated that the workmen were given full opportunity to defend themselves in the enquiry. The employer stated that findings of the inquiry officer holding the workmen guilty of the charges are based on the evidence on record. The employer stated that on receipt of the findings the management concurred with the same and after considering the past service records of the workmen and the gravity of the misconduct the management decided to terminate the services of the workmen. The employer stated that the termination of the services of the workmen is legal and justified and they are not entitled to any relief as claimed by them. Thereafter the union filed rejoinder at Exb. 4.

4. On the pleadings of the parties issues were framed at Exb. 5 and the issues No. 1 and 2 were tried as preliminary issues. By findings dated 4-10-1991 this Tribunal held that the enquiry conducted against the workmen was not fair and proper and also the charges and misconduct were not proved against the workmen and thus the issue No. 1 and 2 stood disposed off. The parties were directed to lead evidence on merits as the employer had sought permission to lead fresh evidence in support of the charges in case it was held that the enquiry conducted was not fair proper. Thereafter the union as well as the employer led evidence on the merits of the case. After the evidence of the parties was completed, the case was fixed for passing the award. Before the award could be passed the parties submitted that they have arrived at an amicable settlement and they filed the terms of the settlement dated 21-2-2005 at Exb. 44. The parties prayed that award be passed in

terms of the said settlement. I have gone through the terms of the settlement which are duly signed by the parties and I am satisfied that the said terms are certainly in the interest of the workmen. I therefore accept the submissions made by the parties and pass the consent award in the terms of the settlement dated 21-2-2005 Exb. 44.

ORDER

1. It is agreed between the Parties that the Party No. II shall pay a sum of Rs. 75,000/- (Rupees seventy five thousand only) to Shri Gajanan Gaude towards full and final settlement of his claim in Ref. No. IT/36/88.

It is further agreed that out of Rs. 75,000/- the Party No. II shall deduct an amount equivalent to 10% i.e. Rs. 7,500/- (Rupees seven thousand five hundred only) from the total sum payable to Shri Gajanan Gaude and pay the same to Goa Trade and Commercial Workers' Union towards the Union deduction.

2. It is agreed between the parties that the Party No. II shall pay a sum of Rs. 75,000/- (Rupees seventy five thousand only) to Shri Premanand Naik towards full and final settlement of his claim in Ref. No. IT/36/88.

It is further agreed that out of Rs. 75,000/- the Party No. II shall deduct an amount equivalent to 10% i.e. Rs. 7,500/- (Rupees seven thousand five hundred only) from the total sum payable to Shri Premanand Naik and pay the same to Goa Trade and Commercial Workers' Union towards the Union deduction.

3. It is agreed between the Parties that the amount mentioned in the Clause No. 1 and Clause No. 2 shall be paid to the workmen and the Union by a cross cheque in their favour.
4. In view of the above terms of settlement, the workmen Shri Gajanan Gaude and Shri Premanand Naik submit that their Claim stands conclusively settled and that they have no further claim of whatsoever nature against the Party No. II/Company.

No order as to cost. Inform the Government accordingly.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 21-02-2005 in reference

No. IT/11/2002 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 9th March, 2005.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/11/2002

Workmen, rep. by
Duponts Sports Wear Ltd., Employees Union,
Bicholim Industrial Estate,
Bicholim, Goa. ... Workmen/Party I

V/s

M/s. Duponts Sports Wear Ltd.,
Bicholim, Goa. ... Employer/Party II

Workmen/Party I - Represented by Adv. Shri Suhas Naik

Employer/Party II - Represented by Adv. Shri P. Chawdikar.

Panaji, dated: 21-2-2005.

AWARD

In exercise of the powers conferred by clause (d) sub-section (1) of the Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 20-2-2002 bearing No. 28/26/2001-LAB referred the following dispute for adjudication of this Tribunal.

"(1) Whether the following demands raised by Duponts Sports Wear Limited Employees Union, before the management of M/s. Duponts Sports Wear Ltd., Bicholim, Goa, are justified ?

DEMANDS

(1) Pay-Scales:

That the following pay-scales be implemented effective from 01-01-2001.

Grade	Designation	Pay-Scales
A	Supervisors	2500-250-3750-375-5625 $\frac{5}{5}$
B	Machine Operator/ /Checkers	2000-200-3000-300-4500 $\frac{5}{5}$
C	Helpers/packers	1500-150-2250-225-3375 $\frac{5}{5}$

(2) FLAT RISE:

That each workperson be paid a Flat-Rise of Rs. 500/- per month over and above the Basic Salary as on 01-05-2001. The total of Rs. 500/- PLUS the Basic Salary as on 30-05-2001 be fitted in the respective pay-scales as demanded above in Demand (1) as per the normal standards set for 'fitment'.

(3) Fixed Dearness Allowance (FDA):

That with effect from 01-05-2001, each workpersons be paid a Fixed Dearness Allowance (FDA) of Rs. 500/- every month.

(4) Variable Dearness Allowance (VDA):

That with effect from 01-05-2001, each workperson be paid a Variable Dearness Allowance (VDA) at the rate of Rs. 1.25 on the AAICPI base 1500 points (1960=100).

The Variable Dearness Allowance be revised every Quarter.

(5) House Rent Allowance (HRA):

That with effect from 01-05-2001, each worker ought to be paid a House Rent Allowance at the rate of Rs. 400/- per month.

(6) Leave Travel Allowance:

That with effect from 01-05-2001, each worker be paid Rs. 2000/- per annum towards Leave Travel Allowance (LTA).

(7) Conveyance Allowance:

That with effect from 01-05-2001, each worker ought to be paid a monthly Conveyance Allowance at the rate of Rs. 500/-.

(8) Uniforms:

That each worker be issued two pairs Uniforms, per year.

(9) Slippers and Foot Wear:

That each worker be issued slippers and foot-wear once in every six months.

(10) Safety and First-Aid Box:

(A) That the worker be provided with a fully-equipped First Aid Box - To be discussed thoroughly.

(B) Further, workers should be sent for training in - at the Altinho Institute of Safety Training.

(11) Lockers:

Each worker ought to be given a spacious - locker to keep his/her belongings. The present Lockers are found

to be wholly in adequate and crammed to hold the personal articles of the workers.

(12) Leave-Facilities:

That the workers be eligible to the following Leave facilities.

(a) Privilege Leave:

30 days per annum with facility to accumulate upto 100 days.

(b) Casual Leave:

10 days per annum with a facility to encash.

(c) Sick Leave:

10 days per annum with a facility to accumulate upto 30 days.

(d) Holidays and Restricted Holidays:

14 Holidays per annum and 2 Restricted Holidays per annum.

(13) Regularisation of all Temporary Workers:

It is demanded that the management should regularize the services of all the temporary workers with immediate effect.

(14) Maternity-Leave:

Whenever a workperson proceeds on Maternity-Leave, she should be eligible to one months extra Maternity-Leave with full wages - on companies account over and above the normal paid leave accruing from E.S.I.S.

(15) Bonus:

That each worker should be paid 20% Bonus every year. Workers on E.S.I.S. Leave and Maternity Leave ought to be paid Bonus for the period of their bonafide absence as 'deemed-present'.

(16) Work on Sundays:

(A) To - and - fro free transport ought to be provided.

(B) Full 8 - hours double pay and one - day paid compensation - off to one and all who are called to work on Sundays.

Caveat

The Union reserves the right to place additional demand or to add, delete or modify the above demands either before or during the discussions or prior to the settlement.

Those conditions of service which have not been specifically referred to and which are presently enjoyed by the employees shall continue to be applicable to them unless specifically modified through mutual settlement with the Union.

(2) If yes, to what relief the workmen are entitled?"

2. On receipt of the reference a case was registered under No. IT/11/2002 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The workmen/Party I (for short 'Union') filed its statement of claim at Exb. 3. The facts of the case in brief as pleaded by the union are that the employer/Party II (for short 'employer') is having a factory at D-2 Industrial Estate, Bicholim, Goa, and employs more than 100 workers. That the employer is engaged in the business manufacturing readymade garments and takes orders of various branded companies like Wrangler, Raymonds, OCM, Bombay Dyeing etc. That the employer has been paying to the workers a very low salary and does not take into consideration the rising cost of living index. That the Union submitted charter of demands dated 30-5-2001 to the employer but, the employer did not accede the said demands raised by the union. The union contended that the employer makes huge profits every year and gets a very high day to day production. The union contended that the workers are highly skilled but they have not been properly designated no proper pay scales have been given to them and the existing salaries are not sufficient even to bare the expenses of the house rent and as such the workers have put a valid demand for proper gradation, designation and pay-scale. The union contended that the wages and other service conditions of the workers within the region in other factories are very high and better. The union contended that the demands raised by it on behalf of the workmen are legal and justified. The union prayed that the demands raised by it on behalf of the workmen vide letter dated 30-5-2001 be granted.

3. The employer filed written statement at Exb. 4. The employer denied that it employs more than 100 employees and stated that for the last one and half year the factory is not functioning due to negative attitude of most of the workmen towards work and most of the workers are idle for want of work most of the time and some of them have preferred to leave the jobs and work elsewhere. The employer denied that the workers are being paid less than minimum wages and stated that the workers are paid above the minimum wages prescribed for the garment industry by the Government of Goa based on the trade and skill of each workmen. The employer stated that for the last three years it is incurring heavy losses and its financial position is totally bad. The employer stated that it started its business operations in July, 1987 as small scale unit under the licence from VF Corporation, USA for manufacturing and marketing Wrangler banded garments in India but, the said Corporation has already terminated the contract with India and thus it is no longer the Franchisee of VF Corporation. The employer stated that it has made continuous losses for four consecutive financial years beginning from the year 1998-99. The employer stated that it has no financial capacity to meet the demands raised by the union on behalf of the workers. The employer denied that the demands raised by the union are legal and justified.

4. On the pleadings of the parties issues were framed at Exb. 5 and thereafter the case was fixed for recording the evidence of the union. The union was given sufficient opportunities but no evidence came to be led on behalf of the union and adjournment of the case was sought on one ground or the other. Ultimately on 2-2-2005 an application dated 2-2-2005 was filed by the union at Exb. 9 stating that the union does not wish to proceed with the matter and prayed that no dispute award be passed as the employer has declared the closure of the factory w.e.f. March, 2000. The employer gave no objection for passing the no dispute award. The present dispute on charter of demands was raised by the union and now it is submitted on behalf of the union that it does not wish to proceed further with the matter and it is prayed that no dispute award be passed. Since the union itself has stated that it does not wish to proceed further with the matter and has requested for passing the no dispute award, the dispute between the union and the employer does not exist and consequently the reference does not survive.

In the circumstance, I pass the following order.

ORDER

It is hereby held that the reference does not survive, as the dispute between workmen represented by Duponts Sports Wear Limited Employees Union and the management of M/s. Duponts Sports Werar Limited, Bicholim, Goa, does not exist.

No order as to cost. Inform the Government accordingly.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 06-04-2005 in reference No. IT/29/2002 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Tereza Mendonca, Under Secretary (Labour).

Porvorim, 27th April, 2005.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/29/2002

Workmen
Rep. by Goa Tourism Development Corporation

Limited Employees Union,
Panaji-Goa. ... Workmen/Party I
v/s

M/s. Goa Tourism Development Corp. Ltd.,
Trionora Apartments,
Dr. Alvares Costa Road,
Panaji-Goa. ... Employer/Party II

Workmen/Party I - Represented by Gen. Secretary,
Shri Filipinho Gomes.

Employer/Party II - Represented by Adv. Shri P. J. Kamat.

Panaji, dated: 6-4-2005.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 26-4-2002, bearing No. 28/18/2002-LAB referred the following dispute for adjudication of this Tribunal.

"Whether the action of M/s. Goa Tourism Development Corporation Ltd., in transferring the following workpersons with effect from 2-4-2001, is legal and justified ?

- (i) Shri Joaquim Menezes.
- (ii) Shri Filipinho Gomes.
- (iii) Shri Gurunath Pednekar.

If not, to what relief the workpersons are entitled?"

2. On receipt of the reference a case was registered under No. IT/29/2002 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Workmen/Party I (for short, "Union") filed statement of claim at Exb. 5. The facts of the case in brief as pleaded by the Union are that the Employer/Party II (for short, "Employer") is a State owned Corporation and owns many Hotels, Resorts, Cruise Liners and arranges sight seeing tours for domestic as well as foreign tourists and make huge profits every year. That the union objected to the recruitment process done by the employer illegally and also to the other unreasonable approach of the management in order to safeguard the interest of the employees and that of the Corporation. That the union has also filed various complaints against the management on account of over all mis-management, improper planning done by the employer and by its top management. That due to the above said complaint the management had time and again threatened the office bearers of the union that they would be thrown out of employment or stern action would be taken against them. That the employer had been threatening, harassing and pressurising the officer bearers to withdraw the complaint made against the management but the office bearers namely the workmen Joaquim Menezes, Filipinho Gomes and Gurunath Pednekar

refused to consider the demand made by the management. That having failed to pressurise the office bearers to concede to the demands of the management, the management transferred the services of the above said workmen by order dated 2-4-2001. The Union contended that the transfer order dated 2-4-2001 issued to the workmen is illegal and it is issued with malafide intention in order to harass and victimise them for their legitimate trade union activities and also the said transfer orders are issued in violation of guidelines applicable to the Employer-Corporation. The Union contended that the transfer order is in violation of the agreement dated 4-5-93 signed between the union and the employer. The union contended that the transfer order issued to the workman is by way of punishment to curb their legitimate trade union activities. The Union therefore prayed that the transfer order dated 2-4-2001 issued to the workmen be revoked and the said workmen be reverted back to their original place of work.

3. The employer filed written statement at Exb. 6. The employer stated that the office bearers of the union did not acquire a different status and they did not acquire any special privileges other than any member of the union possessed. The employer stated that the relationship in the establishment or undertaking of an office bearer of the union is governed by the contract of service or by such statutory rules, regulations which determine the conditions of service of the employees of such establishment or undertaking. The employer stated that the concession/privilege given to the union office bearers are not part of contract of work or conditions of services and the same can be withdrawn expressly or impliedly at any time. The employer stated that the transfers are affected on account of exigencies of service and due to administrative reasons and the same is done as per the practice and usage and at no point of time in the past any objection was raised. The employer stated in the year 1993 concession was given in writing to the office bearer of the union but the same was impliedly withdrawn on general transfer in April, 2001. The employer stated that in terms of the order of transfer dated 2-4-2001 the workmen have reported for work at the place of transfer and as such the dispute does not survive. The employer denied that the office bearers of the union were victimised or that they were threatened, harassed and pressurised to withdraw the case and complaints filed by them against the management. The employer denied that the office bearers of the union were threatened that their services would be terminated if they did not concede to the demands of the management. The employer denied that the transfer order dated 2-4-2001 is a case of victimisation and harassment for curbing the legitimate trade union activities of the office bearers. The employer stated that the transfer order dated 2-4-2001 is a general transfer and it does not require any reason for transfer to be stated in the said order. The employer denied that the workman are entitled to revocation of the said transfer order or that they are entitled to any relief. The union thereafter filed rejoinder at Exb. 7.

4. On the pleadings of the parties issues were framed at Exb. 8 and thereafter the case was fixed for recording the evidence of the union. Accordingly the union filed the affidavit in evidence of the Gen. Secretary Shri Filipino Gomes. Thereafter the case was fixed for the cross examination of Shri Filipino Gomes. However the cross examination could not be conducted as Shri Filipino Gomes remained absent and adjournment was sought on behalf of the Union from time to time. Ultimately, Adv. Shri Suhas Naik who was representing the union withdrew his appearance from the case after giving due notice to the Union/Gen. Secretary, Shri Filipino Gomes. On 21-3-2005 Shri Filipino Gomes, the General Secretary of the union remained present and filed an application dated 21-3-2005 at Exb. 11 stating that the dispute between the parties has been conclusively settled and as such the dispute does not survive. He prayed that no dispute award be passed in view of the settlement of the dispute. Since according to the union itself the dispute has been conclusively settled between the parties, the dispute does not exist and consequently the reference does not survive.

In the circumstances I pass the following order.

ORDER

The reference does not survive as the dispute between the parties namely Workmen represented by Goa Tourism Development Corp. Ltd., Employees Union, and M/s. Goa Tourism Development Corp. Ltd., does not exist.

No order as to costs. Inform the Government accordingly.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 04-04-2005 in reference No. IT/27/97 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Tereza Mendonca, Under Secretary (Labour).

Porvorim, 27th April, 2005.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/27/97

Shri Laxman J. Malwankar
President,
Fort Aguada Beach Resort
Employees Union,
Valkesh Wada, Betim,
Bardez-Goa.

... Workman/Party I

v/s

M/s. Fort Aguada Beach Resort,
Singerim,
Bardez-Goa.

... Employer/Party II

Workman/Party I - Represented by Shri Subhas Naik.

Employer/Party II - Represented by Adv. Shri P. J. Kamat.

Panaji, dated: 4-4-2005.

AWARD

In exercise of the powers conferred by clause (d) sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 24th April, 1997 bearing No. IRM/CON-MAP(5)/96/1979 referred the following dispute for adjudication by this Tribunal.

"Whether the action of the management of M/s. Fort Aguada Beach Resort, Aguada Beach Resorts, Indian Resort Hotels Ltd., Singerim, Bardez-Goa, in terminating the services of Shri Laxman Malwankar, Room-boy, with effect from 16-1-1995 is legal and justified ?

If not, to what relief the workman is entitled?"

2: On receipt of the reference a case was registered under No. IT/27/97 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Workman/Party I (for short, "Workman") filed his statement of claim at Exb. 3. The facts of the case in brief as pleaded by the workman are that the Employer/Party II (for short, "Employer") is a Five Star Hotel situated at Singerim, Bardez, Goa. That the employees of the said hotel are the members of the union known as Fort Aguada Beach Resort Employees Union and it is registered as per the provisions of Indian Trade Union Act, 1926 and the said union is also recognised as a sole bargaining agent of the employer. That since the year 1990 the workman is the President of Fort Aguada Beach Resort Employees Union (for short, "union") and has continued to be the President till date. That the workman is also "protected workman" as per the provisions of Industrial Disputes Act, 1947. That on the expiry of the settlement dated 14th April, 1992 the union vide letter dated 27-6-94 raised fresh charter of demands with the employer demanding improvement in wages and service conditions. That when the discussions on the said charter of demands was going on, the employer with

malafide intention and with a view of preventing the workman from espousing the cause of the workmen issued a transfer order dated 3-5-94 to the workman transferring him from Goa to Madras. That on receipt of the transfer order the workman made a representation to the employer to review his decision to transfer him to Madras and the union in its General Body Meeting passed a resolution that the said transfer order should be cancelled and the said resolution was sent to the employer. That the employer did not agree to withdraw the transfer order due to which there was strained industrial relations between the employer and the union. That the employer also refused to discuss the charter of demands on the plea that they will discuss only if the workman did not attend the joint meeting. That in view of this adamant attitude of the employer, the members were very much agitated and in the General Body Meeting decided to go on strike in case the management failed to settle the demands of the union. That since the employer continued with the adamant attitude and refused to settle the demands, the union had no other alternative but to resort to strike from 24th December, 1994 which was called off w.e.f., 5th April, 1985. That during this strike period the employer issued show cause notice and charge sheets to a large number of employees. That the employer issued a charge sheet dated 4-8-94 to the workman levelling several charges against him. That an enquiry was conducted against the workman in respect of the said charge sheet. That the workman replied to the said charge sheet vide his reply dated 21-10-94 denying the charges levelled against him. That the Inquiry Officer conducted enquiry on several dates and concluded the same ex-parte on 15-12-94. That the Inquiry Officer recorded the statements of the management witnesses and concluded the enquiry without giving the workman opportunity to cross examine the said witnesses and also to lead his defence evidence. That the workman could not attend the enquiry on 12-12-94 because he had to attend conciliation proceedings in respect of the industrial dispute between the employer and the union which was fixed before the Asst. Labour Commissioner Mapusa, on the same date. That the above fact was communicated to the Inquiry Officer vide letter dated 10-12-94 wherein the workman informed the Inquiry Officer that he was to attend the meeting before the Asst. Labour Commissioner Mapusa and therefore he would not attend the enquiry on 12-12-94. That inspite of the said letter the Inquiry Officer continued with the enquiry ex-parte. That on 14-12-94 and 15-12-94 the workman was not present for the enquiry as he was not intimated about the date of the enquiry. That the Inquiry Officer conducted the enquiry in undue haste and with malafide intention without giving any opportunity to the workman to lead his defence and when in fact by letter dated 7-12-94 and 10-12-94 he had requested to the Inquiry Officer to adjourn the enquiry on 12-12-94 on genuine grounds as he had to attend the conciliation meeting before the Asst. Labour Commissioner Mapusa. That the Inquiry Officer was totally bias in favour of the management. That on conclusion of the enquiry the

Inquiry Officer submitted his findings dated 24-12-94 holding that the workman was guilty of the charges levelled against him in the charge sheet. The workman contended that in the charge sheet dated 4-8-94 it was mentioned that the charges were levelled as per clause 21 of the service rules but the employer did not supply the copy of the service rules to the workman nor to the Inquiry Officer. That the procedure of the enquiry as laid down in the said service rules was not explained to the workman and the Inquiry Officer gave his findings without perusing the copy of the service rules. The workman contended that the enquiry was conducted against him in violation of the principles of natural justice and the Inquiry Officer was totally biased in favour of the management and in collusion abruptly concluded the enquiry within the period of 4 days without giving proper opportunity to the workman to defend himself in the enquiry. That the workman was not paid wages nor subsistence allowance nor halting expenses which handicapped the workman in defending himself in the enquiry. The workman contended that the findings given by the Inquiry Officer are perverse and one sided and they are without proper application of mind. That on receipt of the findings from the Inquiry Officer, the employer issued a show cause notice to the workman asking him to show cause why he should not be dismissed from service. That the workman replied to the said show cause notice vide his letter dated 12-1-95 and in spite of the receipt of the said reply the employer dismissed the workman from service by order dated 16-1-95 without considering the reply. The workman contended that he was a protected workman at the time of termination of his service as per the provisions of the Industrial Disputes Act, 1947 and as such his services could not be terminated without first seeking prior permission from the Industrial Tribunal and as such the employer violated the provisions of Sec. 33 of the Industrial Disputes Act, 1947. The workman contended that termination of his service is by way of victimisation for his trade union activities, he being the President of the Union and was an active member of the said union. The workman annexed to the claim statement annexure "A" setting out therein the acts of victimisation on the part of the employer. The workman contended that termination of his service by the employer w.e.f., 16-1-95 is illegal and unjustified and therefore he is entitled to reinstatement in service with full back wages and consequential benefits.

3. The employer filed written statement at Exb. 5. The employer admitted that it is a Five Star Hotel situated at Sinquerim, Bardez, Goa and that it is owned by M/s. Indian Resort Hotel Ltd. The employer admitted that since the year 1990 the workman was the President of Fort Aguada Beach Resort Employees Union but denied that he continues to be the President of the said union till date as also that he is the protected workman as per the provisions of Industrial Disputes Act, 1947. The employer denied that while the discussion on charter of demands was going on the employer with a bonafide intention and with a view to prevent the

workman from espousing the cause of its members issued a transfer order to the workman transferring him from Goa to Madras. The employer stated that it had issued a deputation training order dated 3-5-94 to the workman for 3 months training at Madras. The employer stated that along with the workman another worker by name Mr. Albert Fernandes was also sent for training for 3 months who obeyed the said order and after completing his training came back to Goa. The employer admitted that the workman was employed as a room boy/jr. Resort attendant since 1-8-84. The employer stated that the workman refused to accept the transfer order and started pressuring the management for withdrawing the said transfer order but the management did not fall prey to the pressure tactics of the workman and the union and did not withdraw the said transfer order. The employer denied that due to the transfer of the workman there were strained industrial relations between employer and the union. The employer stated that they were ready to discuss the charter of demands with the union but the office bearers of the union were not ready to discuss the demands without the workman and were insisting that the discussions must take place between the management and the office bearers of the union led by the workman. The employer denied that they were adamant and refused to settle the demands and therefore the union had no alternative but to resort to strike w.e.f. 24-12-94. The employer stated that the workman took the workers on illegal and unjustified strike w.e.f., 24-12-94 which continued up to 4th April, 1995. The employer admitted that charge sheets were issued to a large number of employees who were on strike and who had indulged in various acts of misconduct besides going on illegal and unjustified strike. The employer admitted that a charge sheet dated 4-8-94 was issued to the workman levelling several charges against him. The employer admitted that they are registered under the provisions of Goa, Daman and Diu Shops & Establishments Act and that they have no Certified Standing Orders. The employer stated that they have their service rules which have been adopted and accepted by the union under a general settlement dated 20th December, 1985 signed between the employer and the union before the Conciliation Officer and they are binding on all the workmen of the employer including the workman in the present reference. The employer stated that at the time of signing of the settlement a copy of the same along with the annexure was issued to the union. The employer denied that the copy of the service rules was not provided to any employee of the hotel or to the union or to the workman or to the Inquiry Officer who conducted the enquiry against the workman respect of the charge sheet dated 4-8-94. The employer admitted that the enquiry was conducted in respect of the charge sheet to the workman on the dates mentioned by the workman. The employer admitted that enquiry was conducted ex-parte on 15-12-94 and the Inquiry Officer recorded the statement of the witnesses and concluded the same on 15-12-94. The employer stated that since the enquiry

was conducted ex-parte the question of giving further opportunity to the workman to cross examine the witnesses of the management and to allow the workman to lead his evidence in defence did not arise. The employer stated that even after giving full opportunity to the workman to participate in the enquiry; he did not bother to attend the same either in person or through his representative and therefore the enquiry was proceeded ex-parte. The employer stated that the workman had communicated to the Inquiry Officer about the meeting on 12-12-94 before the conciliation officer and that the workman had asked for time. The employer however stated that since the said meeting was adjourned the workman ought to have attended enquiry in person and sought time if he desired to do so. The employer stated that since the meeting before the Asst. Labour Commissioner, Mapusa did not materialise it was the duty of the workman to attend the enquiry on the scheduled time. The employer stated that the Inquiry Officer recorded the statement of the management witnesses and reserved their cross examination for 14-12-94, the date which was already communicated to the workman vide publication of the notice. The employer stated that the workman did not attend the enquiry on 14-12-94 and as such the Inquiry Officer proceeded with the enquiry ex-parte and thereafter closed the cross examination of the said witnesses and continued with the further evidence of the management. The employer stated that the workman had refused to accept the copy of the proceedings of the enquiry held on 12-12-94 and that in any event the workman was aware of the date of the enquiry and he purposely did not attend the same and as such he cannot make a grievance of the same. The employer stated that once the enquiry was proceeded ex-parte there is no obligation on the part of the Inquiry Officer to further direct the service of the notice on the workman who had intentionally remained absent. The employer denied that the enquiry was conducted in undue haste and with malafide intention without giving any opportunity to the workman to defend himself in the enquiry. The employer denied that the Inquiry Officer was bias in favour of the management. The employer stated that on the conclusion of the enquiry the Inquiry Officer submitted his findings dated 24-12-94 holding the workman guilty of the charges. The employer denied that the Inquiry Officer did not explain the procedure of enquiry to the parties before the commencement of the enquiry. The employer admitted that the charges levelled against the workman vide charge sheet dated 4-8-94 were under clause 21 of the service rules. The employer stated that being the President of the union the workman was in possession of the copy of the settlement dated 20th December, 1985 wherein service rules were adopted and therefore the question of furnishing the copy of the service rules to the workman did not arise. The employer denied that the charge sheet issued to the workman was vague. The employer stated that though they are covered under the provisions of Goa, Daman and Diu Shops & Establishment Act, the workman is not covered under the said Act as he was

drawing wages of more than Rs. 1600/- p.m. The employer stated that the reply to the show cause notice was received by the employer on 16-1-95 at about 2.00 p.m., and by that time the dismissal order dated 16-1-95 was already passed. The employer stated that they did not take prior permission from the Industrial Tribunal before issuing dismissal order because it was not necessary and further stated that an approval application u/s 33(2)(b) of the Industrial Disputes Act, 1947 was filed before the Industrial Tribunal which is pending for adjudication. The employer denied that they have violated the provisions of Sec. 33 of the Industrial Disputes Act, 1947. The employer denied that the termination of service of the workman is by way of victimisation for trade union activities. The employer denied that the particulars set out in annexure "A" to the statement of claim are the acts of victimisation as contended by the workman. The employer denied that the findings of the Inquiry Officer are perverse and bias in favour of the management. The employer denied that the termination of service of the workman is illegal and unjustified. The employer denied that the workman is entitled to any relief as claimed by him. The workman thereafter filed rejoinder at Exb. 6.

4. On the pleadings of the parties following issues were framed at Exb. 7. Since the issue Nos. 1 and 2 were relating to the enquiry conducted against the workman and proving of the charges of misconduct against him in the enquiry, the said issues were treated as preliminary issues and the parties led evidence on the said issues. By findings dated 24-6-2002 this Tribunal held that the domestic enquiry held against the workman is fair and proper. This Tribunal further held that the charges levelled against the workman in the charge sheet dated 4-8-94 are proved except the charge of absenteeism, and the said charges constitute misconduct under clause 21(i), (viii), (xi), (xii), (xxv), (xviii), (xl), (xli), (xliii), (xliv), (xlviii) and (xlix). Thus the issue Nos. 1 and 2 stood disposed of. Thereafter the case was fixed for the evidence of the workman on the other issues. Before the evidence of the workman could be recorded the parties submitted that they are trying to settle the matter between them and prayed for time to file the terms of settlement. On 7-3-2005 the parties submitted that the dispute between them was amicably settled. Both the parties filed the terms of settlement dated 7-3-2005 and prayed that consent award be passed in terms of the said settlement. I have gone through the terms of the settlement dated 7-3-2005 Exb. 15 which are duly signed by the parties and I am satisfied that the said terms of settlement are certainly in the interest of the workman. I, therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 7-3-2005 Exb.15.

ORDER

1. It is agreed between the parties that the termination of the services of the workman Mr. Laxman J. Malvankar shall be deemed to be

converted into voluntary resignation of his services with effect from 31-01-2005.

2. It is agreed between the parties that the workman Mr. Laxman J. Malvankar, shall be paid an amount of Rs. 8 Lakhs (Rupees eight lakhs) only towards full back wages upto 31-01-2005, Bonus upto 2004/2005, privilege leave encashment upto 31-01-2005, provident fund and gratuity for the services upto 31-01-2005.
3. It is agreed and declared by the workman Mr. Laxman J. Malvankar that the amount payable by the Company to him in the manner hereinabove provided for are in full and final settlement and satisfaction of all the claims of the workman against the company including claims for compensation for loss of office or otherwise whatsoever.
4. It is agreed between the parties that the amount of Rs. 8 lakhs shall be paid to the workman on or before 7-3-2005.
5. It is agreed between the parties that in view of monetary settlement as above, the approval application shall be deemed to be withdrawn being infructuous and an application to that effect be filed for appropriate orders.
6. It is agreed between the parties that this settlement shall be filed in Reference No. IT/27/97 for an Award in terms of this settlement.
7. It is agreed between the parties that since the major amount is towards back wages, gratuity and provident fund spread over for the period from May, 1994 to January, 2005 no tax at source be deducted and the workman shall be at liberty to take steps as far as payment of Income Tax on the said amount is concerned.

No order as to cost. Inform the Government accordingly.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 02-05-2005 in reference No. IT/60/2002 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 6th May, 2005.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/60/2002

Workmen

Represented by Secretary

Goa Trade & Commercial Workers Union,
Velho's Building, 2nd Floor,
Panaji, Goa.

... Workmen/Party I

v/s

M/s. Polytainer Industries,
P/12, Corlim Industrial Estate,
Corlim, Ilhas-Goa.

... Employer/Party II

Workmen/Party I - represented by Adv. Shri Suhas Naik.

Employer/Party II - represented by Adv. G. B. Kamat.

Panaji, dated: 2-5-2005.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa by order dated 14-08-2002 bearing No. 28/27/2002-LAB referred the following dispute for adjudication of this Tribunal.

- "1 (i) Whether the demands of the Goa Trade and Commercial Worker's Union for revision of wages at the rate of Rs. 400/- per month over and above the basic as on 31-12-1999 and the total of Rs. 400/- plus the basic as on 31-12-1999 to be fitted into three different scales in respect of three grades of workmen employed at M/s. Polytainer Industries, Corlim Industrial Estate, as mentioned in Schedule I below and served under the charter of Demands dated 01-01-2000, is legal and justified?

SCHEDULE - I

Grades	Designation	Pay-Scales
I	Helper, Packer, Printer, Cleaner (PPC)	550-30-700-40-900-50-1350-60-1650
II	Machine Operator	700-40-900-50-1350-60-1650-70-2000
III	Supervisor	900-50-1350-60-1650-70-2000-80-2400

- (ii) If not, what relief the workmen are entitled to?"

- 2 (i) Whether the demand of the Union for revision of House rent allowance, Additional Fixed Dearness Allowance; V. D. A.; Traveling

Allowance and shift allowance at the rates specified in the Charter of Demands dated 1-1-2000, is legal and justified ?

(ii)* If not, what relief the workmen are entitled to ?"

2. On receipt of the reference a case was registered under No. IT/60/2002 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Workmen/Party I (for short, "union") filed its statement of claim at Exb. 3. The fact of the case in brief as pleaded by the union are that the employer/Party II (for short, "employer") has a factory situated at Corlim Industrial Estate, Corlim, Goa. The factory employs more than 9 workpersons. That the employer is engaged in the business of manufacturing plastic bottles and other plastic items. That the employer supplies the above goods to many factories such as Syngenta, Flora Cosmetics and to other factories all over India. The present salaries paid to the workmen do not take care of the rising cost of living index. The union contended that the workmen are entitled to claim enhanced wages as mentioned in the Charter of Demands dated 1-1-2000. The union contended that the employer makes huge profit every year, but it does not pay to the workmen even their minimum wages. The union contended that the employer has the financial capacity to meet the demands raised by it on behalf of the workmen.

3. The employer filed written statement at Exb. 5. The employer denied that the union has locus standi to sponsor the dispute on behalf of the workmen and also that Shri Christopher Fonseca, the President of the Union-Goa Trade and Commercial Worker's Union has no authority to sign the Claim Statement. The employer denied that the salaries paid to the workers did not take care of rising living index or that the workers are entitled to enhanced wages as mentioned in the Charter of Demands dated 01-01-2000 submitted by the union. The employer stated that its factory is permanently closed from 20-11-2001. The employer stated that the workers are not entitled to any relief as claimed by the union in the Statement of Claim. The union thereafter filed rejoinder at Exb. 6. On the pleadings of the parties issues were framed at Exb. 7 and thereafter the case was fixed for recording the evidence of the Union. However, before the evidence was recorded the parties submitted that they are trying to arrive at an amicable settlement. Therefore at the request of the parties the case was fixed on 01-02-2005 for filing terms of settlement by the parties. Accordingly, on the said date the parties appeared and they filed an application stating that the employer has permanently closed its factory from 20-11-2001 and has terminated the services of all the 9 workers who were on its roll as on the said date. The parties stated that the employer has paid to all the 9 workers the amount due to each of them in full and final settlement of their claim arising out of the termination of their services. In the said application the union stated

that in view of the closure of the factory and payment and settlement of claims of the 9 workers in the claim application No. LCC/47/2002 filed by them, the workers are not interested in pursuing with the matter covered by the present reference. The parties prayed that no dispute Award be passed in view of the settlement of the dispute.

4. Since the union itself has admitted that the factory of the employer is closed w.e.f. 20-11-2001 and the claim of the workers in application No. LCC/47/2002 has been fully and finally settled by the employer and as such they are not interested in pursuing with the present reference and has prayed for passing the no dispute Award, I hold that the dispute does not exist and consequently reference does not survive.

In the circumstance I pass the following order.

ORDER

It is hereby held that the reference does not survive since the dispute between the workmen represented by Goa Trade and Commercial Workers' Union, Panaji, Goa and M/s. Polytainer Industries, Corlim Industrial Estate, Corlim, Goa does not exist.

No order as to cost. Inform the Government accordingly.

Sd/-

(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.

Notification

No. 28/6/2005-LAB

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa on 03-05-2005 in reference No. IT/36/2002 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

Vasanti H. Parvatkar, Under Secretary (Labour).

Porvorim, 10th May, 2005.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/36/2002

Workmen rep., by
Goa Trade & Commercial Workers Union,

Velho's Building, 2nd Floor,
Panaji, Goa.

... Workmen/Party I

v/s

M/s. Polytainer Industries,
P-12, Corlim Industrial Estate,
Corlim, Ilhas-Goa.

... Employer/Party II

Workmen/Party I - Represented by Adv. Shri Suhas Naik.

Employer/Party II - Represented by Adv. Shri G. B. Kamat.

Panaji, dated: 3-5-2005.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Government of Goa by order dated 12-6-2002 bearing No. 28/29/2002-LAB referred the following dispute for adjudication of this Tribunal.

"(1) Whether the action of the management of M/s. Polytainer Industries, Corlim Industrial Estate, Corlim, Goa, in refusing employment to Miss Romaldina Fernandes and Miss Leela Gawde, both Operators, with effect from 15-11-2001, is legal and justified ?

(2) If not, to what relief the two workmen are entitled ?

2. On receipt of the reference a case was registered under No. IT/36/2002 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Workmen/Party I (for short, 'union') filed its statement of claim at Exb. 4. The facts of the case in brief as pleaded by the union are that the employer/Party II (for short, 'employer') has a factory situated at Corlim Industrial Estate, Corlim, Goa, and is engaged in manufacturing plastic bottles and other products. That the workman Miss Leela Gawde was appointed on 13-9-1984 as operator and Miss Romaldina Fernandes was appointed on 12-9-1984 as operator. That the union had raised charter of demands on the management and since then the workers are being harassed and victimized by the management. That with effect from 15-11-2001 the employer refused employment to the above two workmen thought they had completed many years of continuous service with clean and unblemished past service records. That the refusal of employment to the workmen is in contravention of the provisions of Section 25(F) of the Industrial Dispute Act, 1947. That no enquiry was conducted against the workmen prior to refusal of employment to them nor they were issued any warning, memo, show cause notice or charge sheet before refusing employment to them. That the employer has employed new work force in place of the said two workmen after refusing employment to them. The union contended that the refusal of employment to the workmen is illegal

and unjustified and as such they are entitled to reinstatement in service with full back wages.

3. The employer filed written statement at Exb. 5. The employer stated that the union namely Goa Trade and Commercial workers Union has no locus standi to sponsor, the dispute of the workmen nor to represent them in the present reference. The employer stated that the workmen were appointed as worker-Grade II in the unskilled category with effect from 1-4-1986 on the terms and conditions contained in the letter dated 30-4-1986 and they were in the said post till 14-11-2001. The employer stated that on account of lack of orders and resultant losses incurred by the employer coupled with accumulative undisposed stock, steep increase in labour charges, the entire working of the factory has been rendered uneconomic and therefore for the purpose of economy and convenience the employer decided to reorganize the working of the establishment and after redistribution/reorganization of the said work, the services of the said two workmen were found to be surplus and therefore it was decided to terminate their services and accordingly vide letter dated 10-11-2001 the services of the said two workers were retrenched with effect from 14-11-2001. The employer stated that when the termination letter was attempted to be served on them along with their legal dues consisting of notice pay, retrenchment compensation and wages till 14-11-2001, the workmen refused to accept the said letter and the cheque issued in their favour stating that they would consult the union leader. The employer stated that the workmen did not report for work from 12-11-2001. The employer stated that since it was found difficult to run the establishment on account of circumstances beyond the control of the proprietor, it was decided to permanently close the establishment and accordingly the establishment was permanently closed from 20-1-2001 and the services of all the workmen were terminated with effect from 21-11-2001. The employer stated that the termination of services of the workmen is legal and justified and the said workmen are not entitled to any relief. The union thereafter filed rejoinder at Exb. 6.

4. On the pleadings of the parties issues were framed at Exb. 7 and thereafter the evidence of the union was partly recorded. At this stage the parties submitted that they are trying to arrive at an amicable settlement and therefore at the request of the parties the case was fixed for filing the terms of settlement on 1-3-2005. Accordingly on this date Adv. Shri Suhas Naik appeared on behalf of the union and Shri G. B. Kamat appeared on behalf of the employer. They submitted that the dispute between the parties is amicably settled and they filed the terms of settlement dated 1-3-2005 at Exb. 10. They prayed that consent award be passed in terms of the above settlement. I have gone through the terms of the settlement which are duly signed by the parties and I am satisfied that the said terms are certainly in

the interest of the workmen. I therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 1-3-2005 Exb. 10.

ORDER

1. It is agreed between the parties that the Party No. II settled the matter of these two workmen namely Smt. Romaldina Fernandes and Smt. Leela Gaude in Claim Application filed under Section 33 (C) (2) of the Industrial Disputes Act, 1947 along with other workmen in full and final settlement of all their claims.
2. It is agreed between the parties that the Party No. II has paid the amount of Rs. 28,400/- and Rs. 28,287/- to both these workpersons, Smt. Romaldina Fernandes and Smt. Leela Gaude and they have agreed to receive the said amount of legal dues due to each of them in full and final settlement of their claim arising out the termination of their services as per the settlement drawn in LCC 47/2002.

3. It is agreed between the parties that in consideration of the payment made as aforesaid union on behalf of the workpersons agree that the dispute in respect of termination of their services by the management of M/s. Polytainer Industries/Party No. II above named with effect from 15-11-2001 is settled conclusively and that the same is in settlement of all their demands, claims including claim for reinstatement with Party No. II raised under the present reference.

4. In view of the above terms of the settlement both parties pray that the consent award be passed in terms of the above settlement.

No order as to cost. Inform the Government accordingly.

Sd/-
(Ajit J. Agni),
Presiding Officer,
Industrial Tribunal.